

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 11, 2020

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairwoman Lodge, Vice Chairman Harris, Senators Hill, Winder, Vick, Anthon, Souza, Stennett, and Buckner-Webb

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairwoman Lodge** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. She welcomed Senator Bart Davis, a former member of the Committee.

GUBERNATORIAL APPOINTMENT: **The Gubernatorial Appointment** of Patricia Perkins to the Treasurer's Investment Advisory Board (TIAB).
Patricia Perkins, Director, Idaho Department of Finance, stated her interest in serving on the TIAB. This position will be a good corollary because of her 30 years in banking including multiple human resource positions. She has also been a small business owner. **Ms. Perkins** said she has been on the TIAB for two months. The State Treasurer's Office will be looking at staffing issues due to pending retirements over the next five years with a focus on establishing good programs to attract and retain examiners. Consideration will be given to a current movement in banking toward financial technology.

GUBERNATORIAL APPOINTMENT: **The Gubernatorial Appointment** of Dale McOmber to the Idaho State Building Authority (ISBA).
Dale McOmber, stated he retired after 40 years with the Morrison Knudsen Company in construction and engineering. That experience will be advantageous in working with the ISBA. He stated his love of Idaho and interest in serving the State in this capacity.

GUBERNATORIAL APPOINTMENT: **The Gubernatorial Appointment** of Mark Ciavarella to the Idaho State Building Authority.
Mark Ciavarella, Owner/Operator of Peak Concrete Construction, stated he has lived in Idaho for 42 years and raised his family here. He has worked in the construction business his whole life and thinks his skill set would be compatible with the ISBA. He would like to give back to Idaho.
Senator Winder asked if Mr. Ciavarella's company and his experience is limited to concrete construction. **Mr. Ciavarella** responded that they can do anything related to concrete.
Chairwoman Lodge announced they would vote on these appointments at the next meeting.

HCR 33 **A CONCURRENT RESOLUTION** to set aside a day of awareness recognizing indigenous persons.

Senator Guthrie, District 28, stated he is a proponent of **HCR 33** in his capacity as Chair of the Council on Indian Affairs. He yielded his time to Representative Caroline Troy and Tyrel Stevenson for opening remarks.

Representative Troy, District 5, stated that, as a consultant and a representative of the Coeur d'Alene Tribe, she became aware of the difficult and tragic issues related to this bill. She described the issue of missing and murdered indigenous people, women in particular, and the violent nature of those actions.

Representative Troy elaborated on actions by other states, statistics, and division of duties in working toward increasing awareness. **HCR 33** designates May 5 as a day to increase awareness, to support efforts of research, and to explore solutions. May 5 is also the National Indigenous Women's Resource Center's National Day of Awareness for Missing and Murdered Indigenous Women (MMIW).

Tyrel Stevenson, Legislative Director, Coeur d'Alene Tribe, stated that Idaho is taking a different approach to this issue than other states. The State and the tribes recognize the gravity of the issue along with the United States (U. S.) Attorney's Office for the District of Idaho. The real work of this effort is improving public safety for communities and raising the level of their health and welfare by collaborating with other agencies including: the Governor's Office, the State police, the Department of Justice, and local and tribal law enforcement to improve response time and investigation.

Vice Chairman Harris inquired if there is any indication why the rates of violence are so much higher for this group. **Mr. Stevenson** answered that the complexity and severity of the attacks, as well as the location, vulnerability, and available resources do not lend to easy answers. One of the reasons for this resolution is to implement research to address all parts of the issue. President Trump recently signed an executive order drawing attention to these issues and directing action by the Department of Justice. There are many underlying causes and reasons for these events; identifying and addressing them is part of this effort.

U.S. Attorney (Attorney) Bart Davis, U.S. Attorney's Office, District of Idaho, urged Idaho to pay attention to the tragic recitals written in **HCR 33**. He read the last paragraph on page 2, lines 27-30 of the bill. He noted that the U.S. Attorney's Office is where any felony cases concerning Native American issues come. **Attorney Davis** asked that the State look seriously at this very important issue to help the tribes solve their problems.

DISCUSSION:

Senator Souza inquired about the jurisdiction of State and local law enforcement on tribal lands related to communication and cooperation. **Attorney Davis** said there is nothing in public law that prevents local communities from working with tribal members and law enforcement.

Senator Winder asked if there was anything the Legislature could do to bridge that gap. **Attorney Davis** said he has appeared before each of the five tribal councils and they just want to be able to exercise their federally recognized rights. There are some conflicts with local law enforcement, but there are many sheriffs and communities working with their tribal partners.

Chairwoman Lodge requested the members of the Nez Perce Tribe come forward to speak and relate their concerns and stories.

TESTIMONY:

Tai Simpson, Niemi Nation/Nez Perce Tribe and an advocate of the Idaho Coalition Against Sexual and Domestic Violence, spoke of opportunities to expand education and awareness, the adverse effect on indigenous communities because of oppression in the Idaho region, the reach of Idaho nations across borders into other regions, and the opportunity for improved collaboration and communication across agencies to make communities safer for all Idahoans.

Chantel Greene, Secretary, Nez Perce Tribe Executive Committee, told her story about a life of violence, abuse, and drugs for her and her brother, and the death of a cousin. She talked about the trauma, silence, a parent who wouldn't ask for help because of fear, and the vulnerability of the whole family. She explained that she came to tell her story to inspire others to have the strength to speak up and begin their own healing because they do deserve a life free of trauma.

Chairman Lodge and **Senator Stennett** thanked Ms. Greene for her testimony and encouraged her to continue her work and remain strong.

Yvette Tuell, Policy Analyst, Shoshone Bannock Tribes, read testimony from Chairman Ladd Edmo, Fort Hall Business Council, Shoshone-Bannock Tribes (see attachment 1). The letter touched on issues of missing information for missing/murdered people outside tribal jurisdiction, inconsistent data between all agencies, increased risk factors involving domestic violence, potential for human trafficking due to traffic corridors, and the need to improve coordination with the Federal Bureau of Investigation, the U.S. Attorney General's Office, and county and state agencies.

Leslie St. Clair, Assistant Tribal Prosecutor, Shoshone-Bannock Tribal Court and tribal member, provided some history but focused on the court process and the types of cases they are involved with (see attachment 2).

Chairwoman Lodge asked the Shoshone Paiute Tribe members from the Duck Valley Reservation in Idaho and Nevada to come forward.

Janelle Wintersteen, known as Coyote Short, consulting geologist at the Idaho Mining and Geology Museum, stated she is a Paiute-Modoc who graduated from Boise State University (BSU). **Ms. Wintersteen** told her story and described some her experiences as a geologist (see attachment 3).

Melanie Fillmore, Standing Rock Sioux Tribe of South Dakota, stated she is an urban Lakota and has lived in Idaho for 17 years. She is a graduate and a faculty member of BSU with a Doctor of Philosophy in Public Policy. She also works as a data analyst with the Idaho Coalition Against Sexual and Domestic Violence. Her research addresses domestic violence in tribal communities and the effects on American Native people who have been removed from their tribal communities and now live in the cities of Idaho. She described the results of that move. **Ms. Fillmore** concluded by stating the Boise community is a good example of positive outcomes.

Written testimonies relating/communicating/sharing their stories were received from Cynthia Metz; Taushina Eagle, Payroll Clerk Finance Department, Nez Perce Tribe; and Bernie LaSarte, Tribal Elder and Executive Director of the Coeur d'Alene STOP Violence Program (see attachment 4).

MOTION:

Senator Hill moved to send **HCR 33** to the floor with a **do pass** recommendation. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

H 548

RELATING TO INITIATIVES AND REFERENDUMS to improve clarity, transparency, and integrity in the initiative process.

Representative James Addis, District 4, explained that **H 548** ensures that: 1.) each initiative covers a single subject which is already required in Article 3, Section 16 of the Idaho Constitution; 2.) each petition signer is made aware they can remove their signature as provided for in Idaho Code § 34-1803B which has been in effect for 25 years; 3.) an effective date is established as described on page 2, lines 27-46 and page 3, lines 1-13 of the bill; and 4.) there is

transparency when a paid signature gatherer receives an aggregate of \$100 or more and is required to report the activity to the Secretary of State's Office. This bill was thoroughly vetted by the Attorney General's Office.

Senator Souza inquired if this bill was in conflict with the initiative bill heard earlier in the session. **Representative Addis** responded that it was not in conflict.

MOTION:

Senator Souza moved to send **H 548** to the floor with a **do pass** recommendation. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

S 1384

RELATING TO FIREARMS to allow school district employees with an enhanced concealed weapon license and under specified circumstances to carry a concealed weapon in a school.

Senator Lakey, District 12, explained this bill is a result of the ultimate evil, when an individual plans and finds a way to enter a school and kill innocent children. There are two things that are important: 1.) the response time is unavoidably measured in minutes but lives are lost in seconds, and 2.) the heroic, but often tragic, effort of a teacher trying to protect the children. **Senator Lakey** stated his appreciation for all those involved in writing this bill including, but not limited to, his fellow Senators, constituents, law enforcement, teachers, school administrators, and Second Amendment advocates. There were many in support but not all. All comments were considered in trying to find common ground.

Senator Lakey described the components of the bill in detail.

DISCUSSION:

Senator Stennett asked for an explanation on page 2, lines 11-14, page 2, lines 34-37, and page 3 regarding the lack of disclosure to parents. **Senator Lakey** responded that the definition of who may carry a concealed weapon mirrors the definition in the Tort Claim Act. He described what type of person that included. School property includes any property under some type of contract with the school. It would not cover a field trip. Confidentiality is partly due to the endangerment of schools that do not have concealed carry in place; they would be viewed as a target. It could be the assumption of a parent that all school employees are carrying.

Senator Souza asked where this bill indicates gun rights are being taken away. **Senator Lakey** answered that it does not, it is an expansion of those rights for a school employee where otherwise gun rights may be restricted at a school and surrounding areas.

Senator Hill requested information about which school officials were involved in crafting this Legislation and who agreed with this bill. **Senator Lakey** stated he met with representatives and legal counsel from the Idaho Educators Association (IEA), the School Board Administrators Association, individuals from Second Amendment groups, the Idaho Fraternal Order of Police, and the sheriffs and chiefs organizations. In response to a question from Senator Stennett, **Senator Lakey** said it was his understanding that the law enforcement associations are neutral, the School Board and School Administrator Associations are opposed, and he was not sure where the IEA stood.

TESTIMONY:

Karen Echeverria, Executive Director, Idaho School Boards Association (ISBA), explained why they are opposed to **S 1384**. Local governance is an issue. Local elected officials govern Idaho school districts and charter schools, and local school boards already have statutory authority to allow people to carry firearms on school property; she further explained the process. **Ms. Echeverria** stated there were also technical issues, such as no discretion for the district to revoke an employee's ability to carry on school property, nor the ability of a school to prohibit weapons possession by such an individual due to disclosure

limitations – even if they believe that employee is not stable. Idaho Code allows the board of trustees to do these things. Last, regarding notification, everything the school board does is subject to the Idaho Public Records Act or the Idaho Open Meetings Law. Neither of those codes allow for confidential notification.

Brian Judy, Idaho State Director, National Rifle Association (NRA), spoke in support of **S 1384**. He said this bill is narrowly drafted so only employees with an enhanced concealed weapons license will be able to carry on school property and the firearm must be in their immediate possession at all times. Gun free zones in schools is a well-documented public policy failure and the dire warnings extended whenever the expansion of the ability to have firearms is proposed have not materialized. Five states have similar legislation and none are experiencing problems.

DISCUSSION: **Senator Stennett** inquired about the number of incidents prevented by someone carrying in the building, other than law enforcement. **Mr. Judy** replied that he didn't specifically know of any and did not know of any in the five states. **Senator Stennett** remarked that school shootings have occurred in those states.

TESTIMONY: **Paul Stark**, General Counsel, IEA, said on behalf of the IEA, he stands in opposition to this bill based on parental rights in Idaho Code § 32-1010; he read the applicable part. There is a problem with confidentiality and the two codes referred to by Ms. Echeverria. **Mr. Stark** referred to page 3, line 50 in paragraph 8 that addresses immunity and explained how that was a problem.

DISCUSSION: **Senator Winder** addressed unalienable rights; life, liberty, and the pursuit of happiness, and stated he could not see how he must lose his right to liberty by being required to tell a parent. **Mr. Stark** explained what happens when an unalienable right is infringed upon. **Senator Winder** explained that some perpetrators were students or past students and by sending notices home, this could make those carrying weapons targets when, in fact, they could have been a very positive deterrent. **Mr. Stark** presented a scenario he thought would be the best solution for Idaho.

Chairwoman Lodge asked if the parents have the right to know if their child's teacher is carrying a gun. **Mr. Stark**, speaking as a Father, said he would want to know.

Mr. Stark reiterated all the issues regarding this bill and stated his respect for Senator Lakey. This issue should be addressed but this bill is not the right way.

TESTIMONY: **Representative Chad Christensen**, District 32, stated this bill is not about guns, it is about children's safety. He observed that Utah has had a similar bill in place since 2001 and there has been no incident of active shooters on school property in 19 years; the same in South Dakota for 7 years.

Chairwoman Lodge asked all members of the Moms Demand Action (MDA) group to stand and to select some spokespersons from the group.

Nicole Brown, a member of MDA, stated that there is no fiscal responsibility, no procedures, not enough training, and no continued education included in the bill.

DISCUSSION: **Senator Stennett** asked how much training it would take to be proficient hitting the target. **Ms. Brown** stated that the Bureau of Justice Statistics show that law enforcement officers receive 168 hours of training on weapons of self defense and use of force.

TESTIMONY: **Sherry Lecton**, Boise, reading a letter from Chris Hannigan Luther, Coeur d'Alene, stated Ms. Luther's opposition to **S 1384** because it is not evidenced based and would place students, teachers, and staff in danger. It is her opinion that guns do not belong in schools.

Terrence Coach, Boise, MDA, stated she is from a family of responsible gun owners and a former teacher. She said that data points say arming teachers is not effective in cases of taking down an active shooter and the presence of guns leads to increased chances of gun violence at schools.

Kathy Sasser, representing herself, spoke in opposition noting that there is not enough training involved in getting an enhanced carry permit and being allowed to carry in a school.

Mary Brown, representing herself, discussed the training and preparation issue mentioned in other testimony.

Jessica Westhoff, a teacher, read a letter in opposition on behalf of Dr. William Deane and Barbara Deane, Post Falls. Elected school officials are already empowered to pass such policies and determine what is best for their districts.

Deborah Pearson, Boise, read a letter in opposition to the bill from a resident of Coeur d'Alene indicating issues related in earlier testimony.

Jim Vandermaas, retired law enforcement, spoke in opposition of the bill. Members of a SWAT team distract and draw attention away from the children and do not return fire, subsequently, putting themselves at risk. It takes anywhere from 30-45 minutes to arrive at a school.

Susan Bastian, representing herself, and reading a letter from **Sarah Glenn**, Coeur d'Alene, MDA, that mirrors her own beliefs. She voiced concerns about parental notification.

Dave Sasser said he is former military and law enforcement, and spent 30 years as an attorney defending police officers. In addition to other issues, immunity is a primary problem with this bill.

Keri Stanek, Idaho native and gun owner, stated she was a sergeant on active duty in the Army and a gun truck commander in Afghanistan. She said that training was a big issue with this bill and provided information about training required in the military and for law enforcement; her mother was a firearms instructor for the Ada County Sheriff's Office. She spoke in opposition to the bill.

Jenna Schlege-Preheim, representing herself, stated, as a parent, psychotherapist, and a person of faith, she believes this bill is risky and puts children and educators at a higher risk of gun violence for all the reasons that have been heard.

Robin Givhan, Superintendent, Payette School District, spoke in opposition of **S 1384**. She has been a member of the NRA and an educator for 40 years. She does not oppose employees carrying guns in school, that is already allowed by law. However, she opposes removing the opportunity for school boards to have control. Speaking as the largest employer in the City of Payette, there is a wide array of school employees and they do background checks. However, those do not identify instabilities a potential employee may have. As a local superintendent, it is her opinion the local school board should be making this kind of a decision.

Chairwoman Lodge stated they had 54 people signed up to testify in opposition to the bill and 27 signed up to testify in support of the bill. At this time, those supporting the bill will be called to testify.

Mathew Faulks said he represents the Idaho State Rifle and Pistol Association (ISRPA) with 400 members statewide, and additional statewide organizations who are also members of the ISRPA. **Mr. Faulks** stated he is an attorney and NRA instructor and indicated that having an employee carrying a concealed weapon adds a layer of deterrence and puts them in a position to defend themselves and others rather than being a human shield.

Eric Parker, representing The Real 3%ers of Idaho, a statewide organization, recited several news headlines regarding school shootings and asked for support of this bill.

S 1384

Chairwoman Lodge announced the hearing for **S 1384** would be continued on Friday, March 13, 2020 at 7:45 a.m.

**MINUTES
APPROVAL:**

Minutes of February 26, 2020 – postponed until a later date.

ADJOURNED:

There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 11:12 a.m.

Senator Lodge
Chair

Twyla Melton
Secretary